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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/351,263	07/12/1999	DAN KIKINIS	P3304	9489

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EXAMINER

NGUYEN, STEVEN H D

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/351,263

Applicant(s)

KIKINIS, DAN

Examiner

Steven HD Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. This action is in response to the amendment filed on 4/30/04. Claims 1-5 have been canceled and claim 6 are pending in the application.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Line 19, "listing address of communicators" is vague and indefinite because it not clear, if the communicators are client communicator units or includes client communicator units, routers and base station. Please clarifying, so the meter and boundary of the claim can be determined.

Line 23, "the client communicator device" is vague and indefinite because it does not refer to any previous element. If the client communicator device is the same with the client communicator unit. Theses recitation in line 23 and 24, must be changed to the client communicator unit There is insufficient antecedent basis for this limitation in the claim.

***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

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improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claim 6 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 6421329 (Here in Kikinis). Although the conflicting claims are not identical, they are not patentably distinct from each other because Kikinis discloses a data network telephony (DNT) system, comprising a base station connected to a DNT capable data network and to a plurality of wireless transceivers, each transceiver transmitting to a distinct area, the base station adapted to operate the transceivers by a two-way, narrow-band, multiple-channel, real-time duplex radio protocol; and a plurality of portable computer-enhanced client communicator units, including microphone and speaker apparatus, each assigned a unique address and adapted to communicate with the base station via the transceivers by the two-way real-time radio protocol and to process DNT calls; a routing table maintained at each of base stations which includes the listing addresses of communicators operating in the area of each connected transceiver; updating the routing table when the communicators move from one area to another with a minimum number of routers as showed in claims 1 and 3. However, Kikinis does not disclose a hierarchical network which includes a mater router and a plurality of lover level routers between the data network and the base stations; a personal router application executable on the routers, base stations, transceivers and client

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communicator units; each base station is adapted to interact with the client communicator units in personal routing functions and individual clients are enabled, through the personal router application, to remotely edit routing rules unique to their own communicator IDs, at the client communicator device is connected to and communicating with the base station or transceivers and to upload the edited rules to the base station or transceivers for programming alternative actions for incoming calls. In the same field of endeavor, Maxemchuk discloses a hierarchical network which includes a master router and a plurality of lower level routers between the data network and the base stations; a personal router application executable on the routers, base stations, transceivers and client communicator units (Fig 1, Ref 80 is mesh network “hierarchical network” which includes a master router “switch agent” and leaf router Ref 82 and 85 “low level routers”; the routers has routing module for receiving packet from switch agent and performing a routing function to route the packet to the mobile unit via routers, base station and transceivers wherein switching agent couples to WAN and low level routers coupled to the base station; Col 10, lines 12-34 and ) and Buhrmann discloses each base station is adapted to interact with the client communicator units in personal routing functions and individual clients are enabled, through the personal router application, to remotely edit routing rules unique to their own communicator IDs, at the client communicator device is connected to and communicating with the base station or transceivers and to upload the edited rules to the base station or transceivers for programming alternative actions for incoming calls (Fig 9, the subscriber executes PIM 130 program in the mobile unit for editing routing rules for incoming calls regardless whether or not the client communicator unit is connected to the base station and uploading it to a SCP which has a routing application for executing the routing information by retrieving the profile from a

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database 108; See col. 3, lines 42 to col. 4, lines 44; col. 6, lines 5-53; col. 7, lines 25-65 and Fig 7 for routing a call based on user profile).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a plurality of routers between data network and base stations as disclosed by Maxemchuk and personal application for editing and upload to a database the user profile for routing the incoming call via the base station as disclosed by Buhrmann's system. The motivation would have been to provide a user with a real time control of the incoming calls.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maxemchuk (USP 6219346) in view of Buhrmann (USP 5903845) and Chen (IEEE).

Maxemchuk discloses (Fig 1-6 and col. 1-13) a wireless system operating with coupling to a data network telephony (DNT) comprising a base station connected to a DNT capable data network and to a plurality of wireless transceivers, each transceiver transmitting to a distinct area, the base station adapted to operate the transceivers by two-way, narrow-band, multiple-channel, real-time duplex radio protocol (Fig 1 discloses a base station for coupling to plurality of transceivers and internet "DNT" wherein each of transceivers cover an service area and the

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transceivers operate in two way, narrow band, multi-channel, real time duplex radio protocol “transmitting voice packet on inbound and outbound frequencies in a narrow band”) and a plurality of portable computer-enhanced client communicator units, including microphone and speaker apparatus, each assigned a unique address and adapted to communicate with the base station via the transceivers by the two-way real-time radio protocol and to process DNT calls (Fig 1 and 6 discloses a plurality of mobile units including a microphone and speaker for receiving and transmitting voice and data packet wherein each mobile has a unique address and using a two way real time protocol “a protocol used to transmit voice packet” and process a telephone call via a data network 100) and a hierarchical network which includes a master router and a plurality of lower level routers between the data network and the base stations; a personal router application executable on the routers, base stations, transceivers and client communicator units (Fig 1, Ref 80 is mesh network “hierarchical network” which includes a master router “switch agent” and leaf router Ref 82 and 85 “low level routers”; the routers has routing module for receiving packet from switch agent and performing a routing function to route the packet to the mobile unit via routers, base station and transceivers wherein switching agent couples to WAN and low level routers coupled to the base station); each connected to a transceiver wherein the base station maintains a routing table includes listing addresses of communicators operating in the area and updating the routing table when the mobile unit roaming from one area to another wherein updating occurring in a minimum number of routers (Col 10, lines 12-34, discloses a base station and switching agent maintaining a list of the mobile unit in the area for routing the received packet and updating the list when the mobile moves to another area ). However, Maxemchuk does not disclose a personal router application executable on the base station,

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transceivers and client communicator units and individual clients are enabled, through the personal router application, to remotely edit routing rules unique to their own communicator Ids at the client communicator device regardless of whether or not the client device is connected to and communicating with the base station or transceivers and to upload the edited rules to the base station or one of transceivers for programming alternative actions for incoming calls and low level router maintains a table which is updated when the mobile move from one area to another . In the same field of endeavor, Buhrmann discloses (Figs 1-11 and col. 1, lines 5 to col. 13, lines 6) the individual clients are enabled, through the personal router application, to remotely edit routing rules for their own communicator Ids and to upload the edited rules to the base station or transceivers for programming alternative actions for incoming calls and the client communicator and base stations are interacted by personal routing function (Fig 9, the subscriber executes PIM 130 program in the mobile unit for editing routing rules for incoming calls regardless whether or not the client communicator unit is connected to the base station and uploading it to a SCP which has a routing application for executing the routing information by retrieving the profile from a database 108; See col. 3, lines 42 to col. 4, lines 44; col. 6, lines 5-53; col. 7, lines 25-65 and Fig 7 for routing a call based on user profile) and Chen discloses a method and system comprising a plurality of routers wherein the routing table of the routers are updated with a minimum number of routers when the mobile moves from one area to another (See Sec 4 for updating routing table of the router when the mobile moves from one area to another area, minimum of number of routers OSDF for performing hierarchical routing).

Since, Maxemchuk suggests the use of tunnel for routing the packet from switched agent to the base station. Therefore, it would have been obvious to one of ordinary skill in the art at



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the time of the invention was made to apply a personal router application for executing on the base station or transceiver and on the client mobile unit for editing the routing rules for their own mobile and uploading the edited rules to the base station or transceiver for using in routing incoming calls and the base station adapted to interact with client mobile in personal functions as disclosed by Buhrmann's system and updating the routing table with minimum number of routers as disclosed by Chen's system into Maxemchuk's system. The motivation would have been to provide a user with a real time control of the incoming calls.

### *Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (703) 308-8848.

The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on (703) 308-6602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven HD Nguyen  
Primary Examiner  
Art Unit 2665  
6/18/04